

SGLI Guide

I. REFERENCES

•38 U.S.C. §§ 1965-1976 (SGLI); Veterans' Benefits Act of 1992 '201; 38 U.S.C. §§ 1977-1979 (VGLI); 38 C.F.R. Part 9. •Army Reg. 27-3, The Army Legal Assistance Program, 30 September 1992. •Army Reg. 600-8-1, Army Casualty Operations/Assistance/Insurance (20 October 1994). •CHNAVPERS Letter Ser 1741 PERS-06L2, dtd 30 Sep 93 (Naval personnel shall not use "By Law" designations). •Life Insurance, Consumer Reports Magazine (July, August, and September 1993)(A three part overview of life insurance, including calculation of needs and comparison of various commercially available products). •Office of SGLI (OSGLI) information: 1-800-419-1473. OSGLI Claims Department: (201) 802-3446.

II. INTRODUCTION

•Importance of SGLI in Legal Assistance. •What is SGLI? •Group term life insurance for members of the armed forces, purchased by the government from private insurers, and partially subsidized by the government. •How the SGLI Program Works.

III. SOLDIERS COVERED

•Active Component. •Active duty soldiers are automatically insured for \$100,000 unless they opt out in writing. •Soldier can elect lower coverage or no coverage by completing VA Form SGLV-8286. In addition soldiers can elect additional coverage up to a maximum of \$200,000. •Reserve Component. Certain reservists are eligible for coverage.

IV. SCOPE OF COVERAGE

•Insurability is guaranteed when first given the opportunity to elect SGLI. Thereafter, soldiers who desire to increase coverage may be subject to insurability determinations. •Provides protection on active duty and for 120 days following separation. No premiums are required during this additional 120 day period. Soldier may convert to Veteran's Group Life Insurance (VGLI) within 120 days of separation. •Soldiers may lose entitlement to SGLI based on:
•their duty status at time of death (e.g., if death occurs during extended AWOL or while serving term of confinement); •or other miscellaneous factors (e.g., following refusal to serve due to conscientious objector status or following conviction of certain serious crimes). See AR 608-2, para. 2-5 and 2-7.
•Cause of death, however, is not relevant to the payment of SGLI proceeds.

V. ELIGIBLE BENEFICIARIES

Any person or legal entity designated by the soldier on appropriate VA form (Active Component: VA Form SGLV-8286). SGLI Act gives service member absolute right to choose beneficiary. *Ridgway v. Ridgway*, 102 S.Ct. 49 (1981).

If no designation, or "By Law" designation, then proceeds are paid according to SGLI statute:

•All to spouse, but if none, then •All to surviving children in equal shares (and descendants of deceased children, by representation), but if none, then •All to parents (equally divided), but if none, then •All to executor of soldier's estate, but if none, then •Next of kin under state law.

Avoid "By-Law" designation. "By Law" designations are no longer authorized within the Army. Message, Total Army Personnel Command, TAPC-PEC, subject: Servicemen's Group Life Insurance (SGLI) Program Change (021131Z Mar 93).

SGLI definition of "parents" for purposes of beneficiary designations. Pursuant to 38 U.S.C. '1965(9), the term "parent" is limited to the father/mother of a legitimate child, the father/mother of

an adopted child, and mother of an illegitimate child. The father of an illegitimate child is considered the parent also, but only if acknowledged in signed writing prior to death; judicially decreed either to be the father or to provide support; or proof of paternity is established from official records (e.g., birth, school or welfare records) which show that, with his knowledge, claimant was named father.

See *Lanier v. Traub*, 934 F.2d 287 (11th Cir. 1991) (Despite fact service member raised by stepfather, "by law" designation precluded stepfather from sharing in SGLI proceeds, which went to natural father and mother).

SGLI definition of "children" for purposes of beneficiary designations. Pursuant to 38 U.S.C. § 1965(8) the definition of "child" is limited to a legitimate child or a legally adopted child. An illegitimate child is also included within the term if the insured is the child's mother or, if the insured is the father, the relationship meets the requirements of para. a.(1) through a.(3), above.

But ensure soldier keeps designation current. See *Ridgway v. Ridgway*, 102 S.Ct. 49 (1981) (A spouse was designated by name on SGLI election form. Soldier did not change election following subsequent divorce; ex-spouse was entitled to all the proceeds). See also *Zawrotny v. Brewer*, 978 F.2d 1204 (10th Cir. 1992), cert. denied 113 S.Ct. 1418 (1993). (Oklahoma statute stated that, by operation of law, divorce causes ex-spouse to lose all entitlement to life insurance proceeds on life of previous spouse. Court of Appeals held Oklahoma statute ineffective to change ex-spouse designation on SGLI form.)

Consider trustee (living or testamentary) or custodian under Uniform Gifts (Transfers) to Minors Act (UGMA/UTMA) as designated beneficiary for minor children. Such designation may avoid delay and expense in the payment of proceeds. See attachment 1 (OTJAG guidance) and attachment 2 (summary of language for SGLI designations).

Guardianship.

Custodianship created pursuant to UGMA/UTMA. See attachment 3 (summary of specific state adoptions of UGMA/UTMA).

Potential Advantages

- No delay in payment of proceeds.
- Avoids cumbersome restrictions found in guardianship arrangements.
- You (the Attorney) can understand UGMA/UTMA.
- "Uniform" laws mean uniform application - even with mobile clients like those we have in the military.
- UTMA allows transferor choice of law options and has clear conflicts of law provisions.
- Transferor may designate a nonresident to serve as custodian
- Custodianship is not a separate taxable entity.

Potential Disadvantages (in comparison with trust options)

- One beneficiary per custodianship.
- Mandatory age of distribution to beneficiary - too early? See attachment 3.
- No protection against spendthrifts (only a potential problem if custodianship continues into majority).
- Testamentary Trust (LAAWS Minuteman Will Program).
- SGLI Living Trust (LAAWS Program).

VI. APPLICATION FOR BENEFITS

Apply for benefits by submitting VA Form 29-8283, Claim for Death Benefits, to OSGLI, 212 Washington Street, Newark, N.J. 07102-2999. OSGLI may accept a fax copy of the claim.

Settlement options.

- Soldier may elect lump-sum or 36 monthly installments.
- If soldier did not specifically elect monthly payments, beneficiary may elect type of settlement.

OSGLI will need Service Headquarters (e.g., DA Casualty) to provide them with DD Form 1300 (Report of Casualty) and a copy of the SGLV-8286 (Servicemen's Group Life Insurance Election and Certificate) before payment will be made. Are local Casualty offices moving quickly to provide Headquarters with the necessary information and paperwork?

VII. VETERANS' GROUP LIFE INSURANCE

Renewable group term life insurance available after soldier leaves active duty. The term is for 5 years.

Up to \$200,000 in coverage available.

Active Component soldiers should apply for VGLI within 120 days of leaving the service.

VGLI Rates (Per \$100,000 coverage - effective 1 September 1993):

AGE	MONTHLY RATE
thru 29	\$12.00
34	\$20.00
39	\$26.00
44	\$34.00
49	\$44.00
54	\$65.00
59	\$88.00
64	\$113.00
69	\$150.00
74	\$225.00
over 75	\$450.00

Certain reservists may also be eligible.

VIII. SGLI OR A COMMERCIAL INSURANCE ALTERNATIVE?

- Insurance Needs. •Relative Costs. •Comparison of Benefits. •War Clauses. •Renewal.
- Preexisting Conditions. •Suicide. •Creditors of the Estate.

Total value of SGLI proceeds is included in decedent's estate for purposes of Federal estate tax but generally exempt from the claims of creditors and other taxes, including federal income tax. Compare 38 U.S.C. § 1970g (1991) with *United States Trust Co. v. Helvering*, 307 U.S. 57 (1939) and *United States v. Wells Fargo Bank*, 485 U.S. 351, 355 (1987).
Commercial Insurance.

IX. CONCLUSION

SGLI is Important!

Counsel your clients! (See "SGLI Counseling Guide" at attachment 4).

Train your PAC clerks! (Use sample designations in attachment 2).